

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

BellSouth Corporation

Petition for Rulemaking To Change The
Distribution Methodology For Shared Local
Number Portability And Thousands-Block
Number Pooling Costs

RM-11299

**VERIZON'S COMMENTS IN SUPPORT OF CHANGING THE DISTRIBUTION
METHODOLOGY FOR SHARED LOCAL NUMBER PORTABILITY AND
THOUSANDS-BLOCK NUMBER POOLING COSTS**

Michael E. Glover
Of Counsel

Karen Zacharia
Amy P. Rosenthal
1515 North Courthouse Road
Suite 500
Arlington, VA 22201
703-351-3175
amy.p.rosenthal@verizon.com

January 5, 2006

Attorneys for the
Verizon telephone companies

TABLE OF CONTENTS

	<u>Page</u>
Introduction.....	1
I. Market Conditions And Service Providers' Use of The NPAC Database Have Changed Dramatically Since The Current Cost-Allocation Methodology Was Adopted.....	2
II. The Commission Should Initiate A Rulemaking to Reexamine Its Cost Distribution Methodology In Light of These Changes	8
A. The Current Cost-Allocation Method Is No Longer Competitively Neutral	8
B. The Commission's New Cost Distribution Plan Should Adhere To Sound Economic Principles.....	10
Conclusion	12

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

BellSouth Corporation

Petition for Rulemaking To Change The
Distribution Methodology For Shared Local
Number Portability And Thousands-Block
Number Pooling Costs

RM-11299

**VERIZON'S¹ COMMENTS IN SUPPORT OF BELL SOUTH'S PETITION
FOR A RULEMAKING TO CHANGE THE DISTRIBUTION METHODOLOGY
FOR NPAC DATABASE BILLABLE TRANSACTION COSTS**

INTRODUCTION

The Commission should grant BellSouth's petition and initiate a rulemaking reexamining how to distribute the costs associated with maintaining and updating the regional databases that make local number portability and thousands-block pooling possible. In the years since the Commission established its current revenue-based allocation methodology, the competitive landscape in the industry has changed dramatically. Moreover, service providers have increasingly used database transactions to accomplish a wide variety of tasks unrelated to number portability or pooling, such as grooming their own networks and offering new services to customers, while shifting the costs of those transactions to other carriers through the revenue-based allocation system. As a result of these changes, the Commission's current cost allocation

¹ The Verizon telephone companies ("Verizon") are identified in Attachment A to these comments.

scheme is no longer competitively neutral. The Commission should therefore open a rulemaking proceeding to identify and implement new cost distribution rules addressing the various types of database transactions consistent with sound cost-causation principles and the statutory mandate of competitive neutrality.

I. Market Conditions And Service Providers' Use Of The NPAC Database Have Changed Dramatically Since The Current Cost-Allocation Methodology Was Adopted

The Commission's *Third Report and Order*² established the current revenue-based allocation method for distributing the costs of transactions³ in seven regional databases, known as Number Portability Administration Center (NPAC) databases, which make local number portability and thousands-block number pooling possible. As BellSouth's petition correctly observes, much has changed in the telecommunications industry in the years since the *Third Report and Order* was issued in early 1998. See *BellSouth Petition* at 11-14. For example, it has now been ten years since the Communications Act of 1996. Competitive local exchange carriers are no longer fledgling companies entering a new industry, but rather well-established participants in a vigorously competitive market.⁴ Intermodal competition is flourishing as well,

² *Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701 (1998) ("*Third Report and Order*").

³ For ease of reference, Verizon uses the term "transactions" to refer to the billable transactions in the NPAC databases that are currently allocated among the industry on a revenue basis as "shared industry costs" pursuant to the *Third Report and Order* and the Commission's *Pooling Report and Order*. See *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000) ("*Pooling Report and Order*"). NeuStar, the current NPAC database administrator, from time to time performs other database functions for the industry on a statement of work basis. For purposes of these comments, those functions are not included in the term "transactions."

⁴ See, e.g., Declaration of Michael K. Hassett, Kathy Koelle, Katherine C. Linder, and Vincent J. Woodbury, submitted in *Verizon Communications and MCI, Inc. Applications for Approval of Transfer of Control*, WC Docket 05-75 (Mar. 11, 2005); *Local Telephone Competition: Status as of December 31, 2004*, Industry Analysis and Technology Division,

as cable telephony, wireless, and Voice-over-IP providers account for growing numbers of subscribers and minutes of use.⁵

The industry's experience with local number portability and thousands-block pooling has grown dramatically in the past eight years as well. At the time of the *Third Report and Order*, local number portability was still new to the industry. The Commission's thousands-block pooling initiative had not even begun. Today, by contrast, incumbent local exchange carriers, competitive local exchange carriers, and wireless carriers have years of experience with porting and pooling – and with the system of regional NPAC databases that supports these initiatives.

As carriers have gained experience with porting, pooling, and the functionalities offered by the NPAC databases, their use of the databases – and the impact of allocating the transaction costs among service providers – has changed dramatically. Recent years have seen rapid increases in the number of transactions and total transaction costs, with many providers' allocated portion of the total transaction costs growing even though those providers are generating fewer and fewer transactions in the database.

For example, BellSouth notes in its petition that the annual number of transactions in the Southeast region have increased from just over 3 million in 2001 to over 23 million in 2004.

BellSouth Petition at 20. This dramatic increase is not unique to the Southeast region. Rather, it

Wireline Competition Bureau, Table 1 (July 2005) (CLEC share of end-user access lines grew from 4.3% in 1999 to 18.5% in 2004).

⁵ See, e.g., CTIA, *CTIA's Semi-Annual Wireless Industry Survey Results*, <http://files.ctia.org/pdf/CTIAMidYear2005Survey.pdf> (reporting that the number of wireless subscribers has grown from less than 61 million as of June 1998 to over 194 million by June 2005); see also Declaration of Robert W. Crandall and Hal J. Singer, submitted in *Verizon Communications and MCI, Inc. Applications for Approval of Transfer of Control*, WC Docket 05-75 (Mar. 11, 2005) (discussing the displacement of wireline minutes by wireless minutes); Vonage Newsletter, Issue 6, 2005 http://www.vonage.com/newsletters.php?lid=footer_newsletters (claiming over one million lines).

reflects a national trend of rapidly increasing transactions in the NPAC database. Nationally, the total number of transactions nearly doubled every year from 2001 to 2004. The total number of transactions is forecast to reach over 180 million in 2005 – an increase of 900% since 2001.⁶

As the total number of transactions has risen, the total transactions costs have skyrocketed as well. Nationally, transactions costs totaled roughly \$30 million in 2001. Based on actual data and NPAC Forecasting Group forecasts, Verizon estimates that transactions costs industry-wide in 2005 will be more than five times that much, exceeding \$150 million.

Moreover, the NPAC Forecasting Group predicts that the number of transactions – and the corresponding costs – will continue to rise. As of September 2005, the NPAC Forecasting Group estimates that service providers will request 272 million transactions in 2006 – more than one transaction for every adult in the United States.⁷

While database transactions have increased, any logical connection between a provider's use of, or benefit from, the database and its portion of the shared costs has disappeared.

⁶ According to NPAC data, the approximate number of transactions in the past several years were as follows:

Year	Transactions
2001	19,156,600
2002	34,742,600
2003	66,584,500
2004	122,751,100

As of the date of this filing, complete fourth quarter NPAC data are not yet available. Based on actual data for January through September 2005, combined with its forecast for the remainder of 2005, the NPAC Forecasting Group estimates 180,630,800 total transactions for 2005.

⁷ See Central Intelligence Agency, The World Factbook (2005), United States profile, found at <http://www.cia.gov/cia/publications/factbook/geos/us.html#People> (U.S. population estimated at approximately 296 million persons as of July 2005, including approximately 235 million persons 15 years old or older).

Verizon's allocated portion of the transaction costs illustrates the point. For several years Verizon, much like BellSouth, has paid *increasing* amounts of the industry's transaction costs -- even though Verizon has initiated *fewer* transactions. See *BellSouth Petition* at 27-33. For example, in 2002, Verizon generated approximately 1.2 million transactions, or roughly 3.5% of the total nationwide. That year, under the Commission's revenue-allocation model, Verizon was allocated roughly \$6.6 million of the industry's costs. Verizon has generated fewer transactions in every year since, reaching a low of approximately 835,000 transactions, or less than 1% of the industry total, in 2004 -- but its allocated costs have steadily increased every year. In the first three quarters of 2005, Verizon has generated fewer than 800,000 transactions, or less than 1% of the industry total. Nevertheless, Verizon expects its total allocated costs in 2005 to exceed \$18 million -- almost triple its 2001 allocation.

This disconnect between the number of transactions a service provider generates and its allocated share of the transaction costs is particularly troubling in light of carriers' evolving use of NPAC transactions for a variety of purposes that have nothing to do with local number portability or number pooling. NPAC uses objective criteria to classify all transactions into a variety of categories based on the type of transaction and the reason for the transaction. NPAC's classifications identify transactions that further each of the two original purposes of the database: local number portability and pooling. NPAC's classifications also reveal, however, a growing and substantial number of transactions (and associated costs) that *cannot* be attributed to either number portability between providers or number pooling.

One such category of transactions is known as "LNP Type 1 transactions" or "intra-service provider transactions." These transactions occur when a service provider generates a transaction to port a number within its own network. NPAC identifies LNP Type 1 transactions

by looking to Service Provider IDs, which are objective data fields in each ported number record. Service Provider IDs or “SPIDs” are unique, four-digit identification codes that identify each service provider.⁸ Each ported number record in the database indicates the service provider IDs of both the service provider from which the number is being ported (the “losing” provider) and the provider to which the number is being ported (the “winning” provider). When a service provider is moving a number within its own network, the “losing” and “winning” service provider ID will be the same, and NPAC will classify the transaction as a LNP Type 1 or “intra-service provider” transaction.

Service providers may request intra-service provider transactions for a variety of reasons, many of which involve network grooming or technology upgrades. For example, service providers may move customers that are served by one switch to a different switch within the provider’s network in order to reorganize its network configurations or to migrate customers to newer or more efficient technology. In such cases, NPAC database transactions would be required for each customer that is moved to the new switch. Service providers also may port numbers within their own networks as part of convenience services offered to their own customers. For example, many carriers offer “location porting,” which enables a customer who is not changing his or her service provider to keep his or her old phone number when moving to a new address within the same rate center. If the customer’s new address is served by a different end office, the service provider will use the NPAC database change to move the customer’s phone number to the new end office.

⁸ A service provider’s SPID must be one of its valid Operating Company Numbers or “OCNs” as assigned by the National Exchange Carriers’ Association.

Another category of NPAC transactions that do not advance either number portability or pooling are known as “modifies.” As the name suggests, “modifies” occur when a service provider makes a change within an existing record relating to its own network. When a service provider modifies one of its own existing records, NPAC verifies that the current service provider of record has initiated the transaction and populates the “download reason” field in the broadcast message to identify the transaction as a “modify.” Much as in the case of LNP Type 1 ports, service providers often use “modify” transactions to reorganize their own networks or customer services by altering the routing of calls or changing the SS7 routing information for supplementary services such as CLASS, Line Information Database (LIDB), Calling Name (CNAM), and Inter-Switch Voice Messaging.

Intra-service provider transactions and “modifies” account for a growing portion of the total transactions industry-wide. According to NeuStar, in 2001 approximately 34% of all transactions fell into one of these two categories. By contrast, these two types of transactions accounted for almost half – approximately 46% – of 2005 transactions. Moreover, because service providers often request intra-service provider and “modify” transactions as a way of reconfiguring their own networks, these transactions often occur in large numbers at a single time. For example, on a single day last month – December 9, 2005 – one service provider issued two large requests for intra-service provider and “modify” transactions, generating over 225,000 such transactions for that provider alone. On the same day, another service provider issued a single request for over 103,000 such transactions. Service providers’ rising use of transactions such as these since the Commission’s *Third Report and Order* to accomplish their own network upgrades and reorganizations has increased the total transaction cost of the NPAC databases,

with increasing amounts allocated to service providers like Verizon and BellSouth that generate *decreasing* numbers of database transactions.

II. The Commission Should Initiate A Rulemaking To Reexamine Its Cost Distribution Methodology In Light Of These Changes

A. The Current Cost-Allocation Method Is No Longer Competitively Neutral

The 1996 Act requires that the costs of number portability and pooling must be “borne by all telecommunications carriers on a competitively neutral basis.” 47 U.S.C. § 251(e)(2). The Commission has interpreted this requirement to mean that the cost distribution mechanism “(1) must not give one service provider an appreciable, incremental cost advantage over another service provider when competing for a specific subscriber, and (2) must not disparately affect the ability of competing service providers to earn a normal return.” *Third Report and Order*, ¶ 42.⁹

As BellSouth’s petition explains, the current revenue-based allocation of all transactions cannot satisfy this standard. Under the present system, the costs assessed to a particular service provider bear no relation to the number of transactions generated by that provider. As a result, carriers such as Verizon and BellSouth pay a rapidly increasing sum, despite the fact that they initiate a decreasing number of the transactions. This disparity places a disproportionate burden on Verizon and BellSouth (and others similarly situated) by requiring them to fund transactions when the benefits of those transactions – such as the revenues from a newly won customer or the benefits of a network upgrade – increasingly flow to their competitors. *See BellSouth Petition* at 27-33.

The current system is particularly problematic in light of providers’ increasing use of the NPAC databases in new ways that do not further the original purposes of the databases, as

⁹ *See also Pooling Report and Order*, ¶¶ 198-199.

discussed above. Because a provider's share of the total transaction costs bears no relationship to the number of transactions the provider generates, providers have no financial incentive to limit their use of the regional NPAC databases. In fact, as the Commission has recognized in other contexts, the converse is true – the current system, which does not link a provider's allotted costs to its usage of the database gives providers every incentive to *overuse* the system. *See, e.g., Developing a Unified Inter-carrier Compensation Regime*, 16 FCC Rcd 9610, ¶¶ 19-20 (2001) (recognizing the economic principle that a carrier that receives a resource without paying the cost will overuse the resource); *MTS and WATS Market Structure*, 93 F.C.C.2d 241, 399 (1983) (citing J. Bonbright, *Principles of Public Utilities Rates*, 311-312 (1961) (“costs should be assigned to the cost causer in order for society to best utilize its resources.”)). Service providers contemplating whether and how to implement network upgrades or reconfigurations have strong incentives to use the NPAC regional databases to facilitate their network improvements, thereby foisting their own network costs onto the other providers in their region, with little incremental costs to themselves.

The December transactions discussed above (and many more like them), illustrate the point. The size and scope of the transactions, as well as the objective data in the transaction records, suggest that the more than 329,000 transactions in this example were generated in order to facilitate network upgrades or reconfigurations for two service providers. Yet, the overwhelming majority of the transaction costs associated with these network upgrades will be paid by service providers *other* than the carriers receiving the benefit of the upgrades. Indeed, those costs will be paid by their competitors – other service providers operating in the same geographic area. Permitting service providers to off-load their own network costs in this manner, and to force other carriers to bear those costs, interferes with carriers' ability to earn a normal

return and violates the Commission's test for competitive neutrality. *See Third Report and Order*, ¶ 42. No possible policy interest can justify requiring a carrier to pay for transactions to implement its competitor's network updates or reorganizations. The Commission should therefore initiate a rulemaking to implement a new cost distribution methodology consistent with its statutory mandate. *See* 47 U.S.C. § 251(e)(2).

B. The Commission's New Cost Distribution Plan Should Adhere To Sound Economic Principles

Any new cost distribution system adopted by the Commission should adhere to sound economic principles, taking account of the various reasons for, and benefits of, different types of transactions in the NPAC database. The Commission has long recognized that "economic principles of cost causation dictate that costs should be attributed to their source whenever possible."¹⁰ Economic theory recognizes that "costs should be assigned to the cost causer in order for society to best utilize its resources."¹¹ Here, such an approach will ensure that service providers utilize the functionalities of the NPAC databases most efficiently.

Moreover, distributing costs according to sound cost-causation principles is consistent with the statutory requirement of competitive neutrality. In *Beehive Telephone*,¹² the Commission analyzed the competitive neutrality of distributing database transactions costs on a cost-causer basis in the context of a different database: the SMS/800 database used to administer toll-free telephone numbers. In rejecting Beehive's challenge to the SMS Tariff's usage-based charges, the Commission found that charging database users (known as "RespOrgs") a per-

¹⁰ *See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, 12 FCC Rcd 22120, ¶26 (1997).

¹¹ *MTS and WATS Market Structure*, 93 F.C.C.2d at 399 (citing J. Bonbright, *Principles of Public Utilities Rates*, 311-312 (1961)).

¹² *See Beehive Telephone Company Petition for Declaratory Ruling*, 15 FCC Rcd 11939, ¶¶ 36-37 (2000) ("*Beehive Telephone*").

transaction fee was consistent with the competitive neutrality requirement of section 251(e)(2).

As the Commission explained:

[W]e believe that SMS/800 system administration costs are borne in a competitively neutral manner because, under the tariff, costs are borne only by the parties causing the costs.

To require all carriers, even those that do not use the SMS/800 system, to bear these administrative costs . . . contravenes the long-standing principle that costs should be borne by the cost-causer. As DSMI observes, recovering costs directly from all carriers, including those that do not use the SMS/800 system, would give carriers that are RespOrgs a competitive advantage over other carriers.

We do not believe that Congress, in enacting section 251(e)(2), intended to require carriers that do not use the SMS/800 system to bear the costs of administering the system. Thus, we find that recovering the administrative costs of operating the SMS/800 system only from RespOrgs in proportion to the toll free numbering resources reserved and managed by them is competitively neutral and appropriate.

Beehive Telephone, ¶ 37 (footnotes omitted).

In applying cost-causation principles to a new cost distribution methodology, the Commission should consider the various reasons why service providers may initiate transactions in the NPAC databases and how they benefit from those transactions. Understanding the reasons behind, and the benefits received from, these transactions will shed light on how to appropriately distribute transaction costs consistent with cost-causation principles. In some cases, there may be a clear beneficiary, or cost-causer, that should bear the costs of the transaction. Intra-service provider transactions and “modifies” that serve only to facilitate a service provider’s individual network needs or to provide a customer convenience service are examples of transactions that should be charged directly to the carrier generating the database change. There may also be other types of transactions, however, where there is no single “cost-causer,” such that a different assessment methodology would be appropriate. In any event, the Commission should examine the various purposes of NPAC transactions and craft a new cost distribution system that is

competitively neutral and consistent with cost-causer principles, in light of the ways in which the databases are used.

CONCLUSION

For the foregoing reasons, the Commission should grant BellSouth's petition and open a rulemaking to identify and implement a new cost distribution system consistent with sound cost-causation principles and the statutory mandate of competitive neutrality.

Respectfully submitted,

Michael E. Glover
Of Counsel

A handwritten signature in cursive script, reading "Amy P. Rosenthal", written over a horizontal line.

Karen Zacharia
Amy P. Rosenthal
Verizon
1515 North Courthouse Road
Suite 500
Arlington, VA 22201-2909
(703) 351-3175

Counsel for Verizon

Date: January 5, 2006

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Southwest Incorporated d/b/a Verizon Southwest
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.